



ACRB MEMBERS

April 15, 2011

Chief George Turner
Atlanta Police Department
226 Peachtree Street, S.W.
Atlanta, Georgia 30303

RE: Complaints # 10-66, Jeffery Cash and #10-67, Bryant Mason

Dear Chief Turner:

MAYOR OF ATLANTA

ATLANTA CITY COUNCIL

The Atlanta Citizen Review Board ("ACRB") completed its investigation and adjudication of the complaints that were filed by Jeffery Cash and Bryant Mason alleging excessive force by Officers Luca Amarena, Christopher Dowd, William Walters and Anthony Colton.

The allegations were investigated by Sheena Robertson based on a timely complaint filed by Mr. Cash and Mr. Mason. The complainants are brothers and Mr. Cash is sixteen years old. He was accompanied by his mother, Cynthia Wilkins.

Mr. Cash explained he and his brother, Bryant Mason, were standing outside Chappell Forest Apartments when an unidentified car moved towards them. His brother walked away from the area and the car stopped and members of the Red Dog Unit began to follow his brother. His brother began to run and the officer ran after him. He later heard his brother screaming and yelling that he was being beaten by the officers, so he went to see what was happening. When Jeffery approached, he observed one of the officers repeatedly strike his brother in the head and face with a flashlight. He said that the other two officers hit his brother repeatedly throughout his body. One of the officers noticed him and told him not to move. He left and tried to call his mother on his cell phone. He was on the phone when the same officer approached at gunpoint, snatched the phone and ordered him to the ground. Jeffery said that as he was getting on the ground, the officer forcibly took him down, placed a knee into his back and struck him six times in the back of his head with his elbow. Another officer

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arrived and assisted the first officer by holding him down. He was then handcuffed. Moments later, the other officers brought his brother to the same area where he was detained and placed him face down on the ground. He noted that his brother's forehead was bleeding. Jeffery witnessed one of the officers repeatedly kick his brother in the leg area. He pleaded with the officer to allow his mother to come and they refused and told him to shut up. The officers took him to their patrol car, ran a record check and then released him. He said his brother remained on the ground until EMS arrived and transported Mr. Mason to Grady. Jeffery did not know the identities of the officers, but said that three of them were Caucasian and one appeared Hispanic.

Bryant Mason was interviewed at the Georgia Diagnostic & Classification Prison in Jackson, Georgia. He said that he and his brother were outside the Chappell Forest Apartments when he observed a car. He began to walk away and noticed the car stop and the doors open, so he started to run. He heard someone yell, "We gonna catch your fat ass." Mason said that he did not know that the persons chasing him were police. He ran into a dark secluded area and he heard someone yell, "Hit him with the Taser." Mason stopped, turned and faced the officer and put both hands up. A Caucasian male officer approached him and struck him in the forehead with his flashlight. He fell to the ground and was unconscious. He awoke with the same officer leaning over him and saying, "I told you I was going to catch your fat ass." There was a lot of blood on his face, lip and his fingers were swollen. He felt pain throughout his body. He heard his brother yelling, "What are ya'll doing to my brother." He heard one officer tell another to go and retrieve his brother. They brought his brother to the area where he was detained. He was evaluated by a paramedic who bandaged his head and transported him to Grady Hospital. He said that nothing occurred while he was in the ambulance. Mr. Mason provided the names of two witnesses. Only one of the witnesses made himself available to the ACRB.

Jeffery Griffin was the named witness. He was interviewed and stated that he observed two Red Dog officers chasing Jeffery's brother, Bryant Mason. Mr. Mason stopped running and surrendered by putting both of his hands up. Griffin said he observed the Caucasian officer approach Mason and hit him in the head with a flashlight. Two other officers approached and began to repeatedly strike Mason. Griffin said that while this was occurring, Jeffery Cash came to see what was going on and the officers took him to the ground. Griffin did not see the officers strike Jeffery.

The police incident report (No. 103222227) indicated that Officers Amarena, Dowd, Walters and Colton attempted to stop Mr. Mason because he fled when the officers drove into the apartment complex. The accompanying Use of Force report which was prepared by Sergeant Willie Adams states that Officer Amarena struck Mr. Mason after Mason punched him in the mouth. Officer Amarena had a flashlight

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in his hand and he inadvertently used it to hit Mr. Mason in the head, which caused the laceration to Mason's head. Sergeant Adams concluded that the use of force was justified and within departmental guidelines.

Medical Treatment Records from Grady Hospital indicated that he sustained a laceration to his head which required two sutures. He also complained of pain in his left hand.

Sergeant Adams was interviewed and he said that he responded after he was advised of a foot chase. When he arrived, Mason was in custody. He was told by Officer Amarena that illegal narcotics were recovered from Mason's person and Officer Amarena said that during the struggle, Officer Amarena inadvertently struck Mr. Mason on the head with a flashlight. Officer Amarena told him that Mason had struck him in the mouth when he tried to detain him. Sergeant Adams could not recall if Officer Amarena sustained any injuries. Sergeant Adams took and provided photographs. He interviewed Mr. Mason at the scene and Mr. Mason said that he had been beaten for no reason because he was not fighting.

Officer Luca Amarena was interviewed and explained that when he drove into the apartment complex, Officers Dowd and Walters exited the car so they could enter the complex from the rear. He observed two men, later identified as Mason and Cash, leaning on a parked vehicle. He noted that when Mason saw the car, he started to walk towards the back of the complex. Mr. Cash did not move. Officers Amarena and Colton got out of the car and in a loud voice asked Mason if could speak with him. Mason looked around and took off running. Officer Amarena ran after him and observed Mason go through a hole in a fence in a dark wooded area. Officer Amarena took his city issued flashlight and used it to see where he was going. He gave Mason some commands to stop but he did not comply. Officer Amarena said that Mason removed his jacket, threw it, took a few steps, turned around, took a fighting stance and struck him in the face. Officer Amarena said that he reacted by striking Mason in the face without realizing that he still had the flashlight in his hand. They fell to the ground and Officer Colton arrived and assisted with handcuffing. While they were struggling, Jeffery Cash approached and Officer Colton stopped assisting him in order to deal with the brother. Officer said that Officer Walters arrived and helped to get Mason in handcuffs. After handcuffing, Officer Amarena noticed Mason was bleeding and took him to the patrol car.

Officer Christopher Dowd advised that he and Officers Colton, Amarena and Walters were patrolling. He and Officer Walters got out of the car before they entered the complex and he observed Officers Amarena and Colton in a foot pursuit. He was advised by Officer Colton that the patrol car was not secure and they needed him to secure it. He did. He went to the car and drove it in the direction of the chase and he did not have any interactions with Mason and was not present when the officers apprehended him.

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Officer Walters stated that he entered the complex on foot with Officer Colton. He observed Officer Amarena chasing Mason into the woods. He had a foot injury and could not run fast. He caught up with Officers Colton and Amarena when they were on the ground. He said Mason was resisting by moving his arms. Walters went to assist but Mason's brother was coming up behind him and Officer Walton stood up to deal with Jeffery. He did not observe any officer strike Mason. He did not strike Mason.

Officer Colton said that he was in the car when Officer Amarena entered the complex. He saw Mason and another male (Jeffery Cash) engaged in a conversation. He saw Mason and Cash begin to walk in opposite directions and Mason took flight. He and Officer Amarena ran after him. According to Colton, when they caught up with him, he took an "offensive stance" and punched Officer Amarena in the face. Officer Amarena reacted by punching Mason in the face. Officer Colton tussled with Mason in an effort to get him in handcuffs. Jeffery walked up and he stopped assisting Officer Amarena to deal with Jeffery. He ordered Jeffery to stand back. He did not have physical contact with Jeffery. While he was dealing with Jeffery, Officer Walters arrived and assisted Officer Amarena to get Mason into custody. They called for EMS for Mason.

The Board considered the evidence in the investigation and voted unanimously to **Not Sustain** the allegations of excessive force made by Mr. Jeffery Cash. Mr. Cash said that Officer Dowd approached him at gunpoint, forcibly removed his cellular phone and forced him to the ground and repeatedly elbowed him in the head without provocation. Officer Dowd denies these allegations but said that he did take Jeffery to the ground and handcuffed him because he was trying to interfere with their investigation. Officers Amarena, Walters and Colton corroborated this. There were no other independent witnesses that could substantiate either account. For these reasons, the Board voted to **Not Sustain** the allegation of excessive force with regard to Mr. Cash.

The Board then considered the allegations made by Bryant Mason. It is important to note that the Atlanta Police Department does not train officers to use flashlights as impact weapons. This type of force is not on the Department's use of force continuum. The governing rule appears in S.O.P. 3010 at 4.1.4. It states that, "in an emergency situation or under exigent circumstances where it is immediately necessary to use force to prevent serious bodily injury or death, and City issued and/or authorized lethal or less lethal weapons are inoperable, inaccessible, or otherwise not available or effective, employees may use any object available." The S.O.P. further cites the reasonableness standard set forth in Graham v. Connor, 490 U.S. 386 (1989). Since there was no evidence to support that city issued and/or authorized lethal or less lethal weapons were inoperable, inaccessible, or otherwise not available or effective, the use of the flashlight to hit Mr. Mason on the head is a

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violation. It is also worthy of note that given the information that the officers had at the time, this level of force may have been excessive. The officers only knew that this man had run from them. In both cases, the officer was not justified in striking Mr. Mason over the head with a flashlight; this type of force is frequently lethal. The fact that the officer asserts that this was an accident does not influence the finding. The test is objective. The intent of the officer is not a consideration when considering use of force violations. For these reasons, the Board voted to **Sustain** the allegation of **Excessive Force** as to Officer Amarena. They further voted to not sustain the allegation of Excessive Force as to Officers Colton, Dowd and Walters.

The Board further considered the appropriate disciplinary recommendation. They classified the violation as a Category C violation, pursuant to your Standard Operating Procedure. The grid recommends a range of 4-15 days suspension without pay. They recommended a fifteen (15) day suspension. They further recommended that a copy of this letter be placed in Officer Amarena's personnel file and that he be required to attend training in Anger Management.

Please let me know if you have any questions or concerns or if you would like to have a copy of the full investigation. The ordinance requires that the Chief respond in writing regarding which recommendations are accepted, rejected, or will be implemented with modifications within thirty (30) days of the submission of a recommendation for action by the Board to the Chief. See Sec. 2-2211(O) of Ordinance 07-0-0141.

Sincerely,

A handwritten signature in blue ink, appearing to read "Joy Morrissey", with a stylized flourish at the end.

Joy Morrissey,
Board Chair

cc: Mayor Kasim Reed
Council President Ceasar Mitchell
Members of Atlanta City Council
ACRB Members